

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LU NAN FAN,

Plaintiff,

v.

JENNY & RICHARD'S INC., SHIRLEY'S PLACE, INC.,
ZUO YAO GAO, and "JOHN" LIU,

Defendants.
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WILLIAM F. KUNTZ, II, United States District Judge:

On November 29, 2017, Lu Nan Fan ("Plaintiff") filed a complaint against defendants Jenny & Richard's Inc., Shirley's Place, Inc., Zuo Yao Gao, and "John" Lui (collectively, "Defendants") for failure to pay minimum and overtime wages pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and New York Labor Law ("NYLL") § 650 *et seq.*; violations of New York's spread-of-hours provision, *see* N.Y. Comp. Codes R. & Regs. Tit. 12 § 146-1:6; failure to reimburse expenses relating to tools of the trade, *see* 29 C.F.R. § 531.35; and failure to provide wage notices and statements under NYLL's Wage Theft Prevention Act, N.Y. Lab. Law §§ 195(1)(a), 195(3). *See* Complaint (Nov. 29, 2017), ECF No. 1. Plaintiff brought a motion for default judgment on August 21, 2018. ECF No. 21. The Court subsequently referred the motion to Chief Magistrate Judge Roanne L. Mann for an inquest to determine and recommend appropriate damages, including attorney's fees and costs. ECF No. 25.

On February 22, 2019, Judge Mann filed a Report and Recommendation recommending "that the District Court (1) *sua sponte* dismiss the claims against defendant Gao, on account of ineffective service of process; (2) grant a default judgment against defendant Jenny & Richard's

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DECISION & ORDER
17-CV-6963 (WFK)

in the amount of \$12,000.08 . . . and (3) grant default judgment against defendants Liu and Shirley's Place, jointly and severally, in the amount of \$40,326.92" Report and Recommendation at 38-39, ECF No. 30. In addition, Judge Mann recommended awarding, as against Jenny & Richard's, prejudgment interest on \$2,266.50, in an amount to be calculated by the Clerk of Court, by multiplying \$0.56 by the number of days from September 10, 2015 until the day final judgment is entered, and also awarding, as against Liu and Shirley's Place, jointly and severally, prejudgment interest on \$12,844.50, calculated at the daily rate of \$3.17 from February 8, 2016 until the day final judgment is entered, in addition to post-judgment interest at the rate set forth in 28 U.S.C. § 1961. *Id.* The Report and Recommendation recounted the parties' history; analyzed Plaintiff's claims and damages submissions; calculated the appropriate interest, fees, and costs; and ultimately concluded Plaintiff was entitled to damages. Objections to the Report and Recommendation were required to be filed by March 11, 2019. *Id.* at 39. No objections have been filed, and the time to do so has passed.

The Court reviews a Report and Recommendation for clear error when no objections have been filed. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007) (Garaufis, J.). We find no such error here. The Court therefore adopts the Report and Recommendation of Chief Magistrate Judge Mann in its entirety. Accordingly, it is hereby ordered that Plaintiffs be awarded damages, as well as interest, in accordance with the Report and Recommendation.

SO ORDERED.

s/WFK


HON. WILLIAM F. KUNTZ, II
United States District Judge

Dated: April 4, 2019
Brooklyn, New York